Saskatchewan Municipal Affairs
and Housing
Community Support Services Branch
Advisory (Management) Services Unit

MUNICIPAL NUISANCE GUIDE

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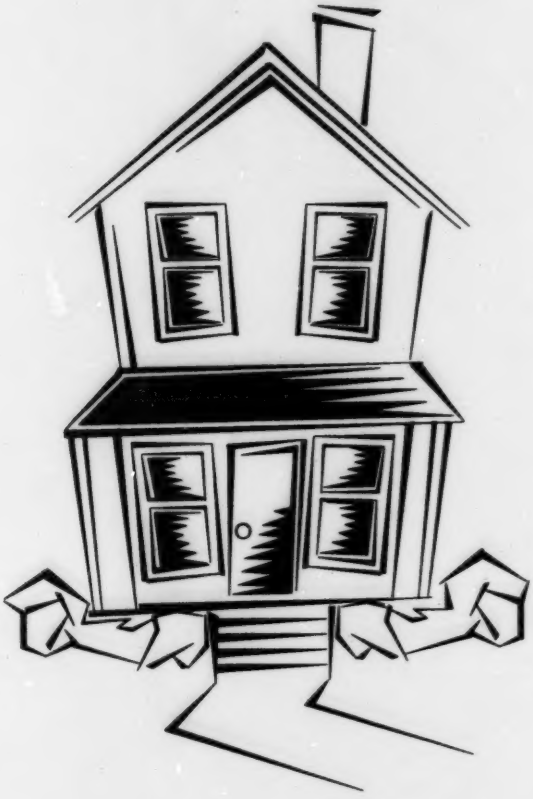

MUNICIPAL NUISANCE GUIDE

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Introduction

Property rights of individual landowners are of great importance in society and should not be interfered with except in extreme cases and then only in accordance with the principles of fairness and natural justice.

The Courts have recognized that in the case of nuisances they must essentially balance the reasonable use of land by one person with the decrease in enjoyment that the reasonable use of the property produces for that person's neighbour and, in some cases, the community as a whole.

Generally, a nuisance refers to any interference with a person's enjoyment of their property. In Saskatchewan, municipal nuisances include such forms as buildings, untidy and unsightly premises, junked vehicles, and excavations. The statutory powers given to municipal councils serve to prevent such acts and erections that are a nuisance or are likely to cause a nuisance.

The procedures for dealing with municipal nuisances are provided for in *The Rural Municipality Act, 1989* and *The Urban Municipality Act, 1984*. The municipal council is the local authority that must decide which nuisances are likely to create or have created a public health and safety concern, as well as protect the landowner's property rights. A council's authority in this respect is discretionary and once the procedure is enacted, a council's powers are extensive.

This guide is to be used as a reference only and it is not intended to replace competent legal advice. Familiarity with the nuisance sections of *The Rural Municipality Act, 1989* and *The Urban Municipality Act, 1984* is recommended when dealing with municipal nuisances.

What this Guide Contains

General Guidelines - covers the general procedures to follow when declaring a municipal nuisance.

Building Nuisances - covers the procedures required when declaring any fence, scaffolding, structure or erection to be a nuisance.

Untidy or Unsightly Premises - covers the procedures required when declaring any property that has excessive vegetation, unpiled lumber or wood, scrap iron, or generally anything that can be corrected by manual labour, to be untidy or unsightly.

Excavation Nuisances - covers the procedures required when declaring any basement, drain, ditch, watercourse, pond, surface water, swimming pool or other structure in or on any private land or in or about any building or structure to be a nuisance and a danger to public safety or health.

Derelict/Junked Vehicles - covers the procedures required when declaring any unlicensed, wrecked or partly wrecked vehicles to be a nuisance.

Dangerous Buildings - covers procedures for municipalities to follow when an unoccupied building is, in the opinion of the council, damaged and a danger to the public safety. As well, procedures to declare an occupied building to be a danger to the public health will be discussed.

Standards and Procedures Bylaw - relates to a bylaw or bylaws that may be adopted by municipal councils to establish municipal standards and procedures with respect to inspections, notices, compliance orders, time requirements, appeal processes and appeal bodies, enforcement, penalties and general procedural matters.

Appendix A - contains sample resolutions, a sample notice and a sample order for declaring a building to be a nuisance.

Appendix B - contains a sample resolution and order for declaring property to be untidy and unsightly.

Appendix C - contains a sample resolution and order for declaring an excavation nuisance.

Appendix D - contains a sample resolution and order for the removal of derelict/junked vehicles.

Appendix E - contains sample resolutions, a sample notice and a sample order for dealing with dangerous buildings.

General Guidelines

The following are general guidelines to follow when declaring a municipal nuisance. Although these steps are not statutory requirements, they will alleviate some potential problems if a council's declaration is challenged in a court of law.

- A warning letter should be sent to the affected persons before a council considers declaring the property to be a municipal nuisance. Give the person every opportunity to correct or remedy the situation before the council takes further action.

- Meet with the affected persons at a council meeting to discuss the situation.

- Make notes of all verbal complaints about the alleged nuisance, including detailed notes of any persons that have appeared before the council.

- If a verbal complaint is received, explain that a letter will assist the council greatly, and ask the complainant to write a letter to the council.

- Keep copies of all written complaints.

- Deal with the affected persons in writing at all times. All correspondence should be written clearly and tactfully.

- Should the affected persons contact the municipality by telephone a written record of the conversation should be kept on file. A letter summarizing the conversation should also be sent to the person as "verification" of what was said on the telephone.

- All correspondence to the affected persons should go by registered mail with a return card to prove that it was mailed. This is more than what is legally required, however, the return card will help to protect the municipality.

- Have the entire council look at the site, not just one council member. Be careful not to trespass on the property.

- Take pictures of the site. Record the date and time the pictures were taken.

- Have witnesses - never deal with the affected persons alone.

- Provide adequate time for the affected persons to remedy the situation.
- Have police presence at the site if opposition is anticipated.
- When the council is going to take action, take pictures of the site again. Record the date and time the pictures were taken.
- Video tape the site before the declaration is made. If the municipality is performing the work, video the work being done.
- Keep accurate records of the costs involved, which will be added to the taxes.
- Keep accurate notes of everything you do in connection with the council's order.
- Consult with your solicitor.

It is recommended that a court order be obtained whenever the municipality anticipates problems in carrying out a municipal nuisance order. This course of action will decrease the possibility of court action being taken against the municipality.

Service of Notices/Orders

Personal Service

"Personal service" means a notice is delivered by an agent of the municipality "*personally*" to the person whom the municipality contemplates taking action against. A notice is considered to be personally delivered if the person who is to receive the notice accepts it *"in person"*.

A person who attempts to evade personal delivery of a notice can be considered to be *"served"* if that person is aware that the municipality is attempting to serve a notice and has general knowledge of the contents of the notice. The notice in this case can be left on the premises of the person being served without actually touching the person to be served.

An agent of the municipality could be the administrator/clerk, sheriff, bailiff, or a private company hired to deliver the nuisance notice/order.

The day of service for a notice delivered personally is deemed to be the day personal service was made.

Service by Registered Mail

The notice must be addressed to the last known address as it appears on the assessment roll and the records of the Land Titles Office.

A notice served by registered mail is deemed to have been received on the fifth day following the date of mailing.

If the notice is returned to the municipality as undelivered, then personal service of the notice is recommended.

Note - If the assessment or tax notices have been undelivered in the past, the assessment records should be marked *"address unknown"*. In this case, the owner may be served by publication in a newspaper. Some reasonable attempts should be made to ascertain the address before resorting to a newspaper publication. There is an implied responsibility on the assessor and treasurer (administrator) to maintain accurate records.

Service by Publication in a Newspaper

This method of service is used only when the owner's address is unknown or the owner is deceased. The notice must be published in at least two issues of a newspaper circulating in the municipality.

The day of service is deemed to be the day on which the last notice in the newspaper appeared. The last publication of the notice must appear at least three days before any action is taken.

General

If the name and address of the registered owner as shown on the title and that of the assessed owner according to the assessment roll are the same, one notice is sufficient. However, if the name or addresses are different, a notice must be sent to the person or persons appearing on the title and to those persons appearing on the records of the assessment roll.

Each nuisance must be handled on a case by case basis. All notices and orders issued by the municipality apply only to the nuisance which prompted the action be taken.

Conducting a Hearing of Council

When a municipal council conducts a hearing for the purposes of declaring a municipal nuisance, it acts as a quasi-judicial body. This requires the council act fairly and objectively in conducting its hearings.

When the council conducts a hearing, all notices should have sufficient detail to outline what the council's plans are to give the affected person the opportunity to address the council regarding its plans. The affected person should be given every opportunity to state his/her objection to a council's plan and convince the council to change its plans.

The hearing and the council's decision regarding the nuisance should be conducted in the open. A council member must be present for all of the hearing in order to vote on it.

Fines

In urban municipalities, every person who fails to comply with an order issued by the council may be subject to a fine or a number of fines. Section 134.1 of *The Urban Municipality Act, 1984* gives a council the authority to pass bylaws imposing fines for failing to comply with an order under Sections 124, 130 and 132 of the Act.

The fines may not be more that $2,000 in the case of an individual, and not more that $5,000 in the case of a corporation. A council may provide, within the bylaw, for a different maximum for a first, second, or subsequent offence. A council may also provide a maximum daily fine for a continuing offence.

Note: Rural municipalities have not been granted the authority to levy fines for non-compliance with an order issued under nuisance provisions of The Rural Municipality Act, 1989.

Building Nuisances

A building nuisance refers to any building within the municipality that is dangerous to the public safety or health or substantially depreciates the value of other land or improvements in the vicinity because of its faulty construction, its ruinous or dilapidated state or for any other reason. A council's authority respecting this type of nuisance is extensive. In order to carry out this remedy effectively, the procedures outlined in Section 124 of *The Urban Municipality Act, 1984* and Section 248 of *The Rural Municipality Act, 1989* must be followed carefully and accurately.

Declaring a Nuisance

A resolution of the council is necessary to declare any building to be a nuisance. The resolution must be specific and mention why the building is being declared a nuisance (see Appendix A for sample).

Notice of Declaration

After the declaration, those persons having a registered interest in the land or building must be given at *least* 14 days written notice of the date, time and place council will meet to consider making an order. At this meeting any person who has a registered interest in the land will be given an opportunity to present reasons why an order should not be issued.

Issuing the Order

When proper service has been made, those persons having a registered interest in the property must be given the opportunity to address the council at the meeting wherein the order is to be issued. They may inform the council of the reasons why the work should not be completed or why an order should not be issued. After hearing the arguments, the council may proceed with the order, however, the time for completing the work must not be less than 45 days from the day the order is *issued* for rural municipalities and 45 days from the day the order is *served* in urban municipalities.

The order must be made by resolution of the council and it must be specific as to the work to be done. A council should not order more work than is necessary to alleviate the nuisance that was declared. A council must also specify the time in which the work must be completed (see Appendix A for sample).

Service of Order

Those persons having a registered interest in the land or building must be served with the order. The service of this order can be made in the same manner as the council declaration. However, if service was made by registered mail and the letter was returned undelivered, the order should be published in at least two issues of a newspaper circulating in the municipality. In every case, a copy of the order should be posted on the building in question.

Registration of Notice

In an urban municipality, the notice of the order may be filed with the Registrar of Land Titles Office and registered on the certificate of title of the land to which the notice applies. If the land is sold, the order runs with the land and is binding on the new owner and any subsequent owner. Once the order has been complied with, the municipality must remove the notice of the order from the certificate of title.

Application to Judge

If any person having a registered interest in the property considers that the council has acted improperly in declaring the building to be a nuisance, or proper service of the notice(s) has not been carried out, they may apply to a Judge of the Court of Queen's Bench to review the matter. This application must be made within 45 days after the day on which the order is *issued* for rural municipalities and 45 days from the day the order is *served* in urban municipalities. The judge may set aside, vary or modify the order on any term that he or she considers just.

Compliance with Order

If the time mentioned in the order has elapsed and the owner has not complied with or challenged the order through the courts, the council may proceed to have the work mentioned in the order carried out. A resolution here is sufficient authority under the municipal legislation. However, the council must limit its action to the work specified in the order. The cost of performing the work is to be added to the taxes on the land affected by the order.

Occupied Building

When a building that has been declared a nuisance is occupied, a written notice may be given to the occupant(s) ordering him/her to vacate the building within one month. The municipal council may apply to a Judge of the Court of Queen's Bench for an order requiring the occupant to give up the land and buildings to a nominee of the council, if the occupant fails to vacate the building within one month of receiving the order. Again, the Judge can make any order he or she considers just, including an order as to costs.

Sale of Materials

If a council removes or demolishes the building declared to be a nuisance, it may sell any materials from the demolition or removal to cover the cost of:

- performing the work;
- any costs awarded to Council by a judge with respect to removing the occupant from the building; and
- any taxes owing on the land and buildings.

Once these costs have been paid, any excess funds would be paid to the owner of the land and buildings.

Untidy or Unsightly Premises

Under Section 130 of *The Urban Municipality Act, 1984* and Section 250 of *The Rural Municipality Act, 1989* a municipal council has the authority to declare any premises within the municipality as untidy or unsightly. This provision gives a council authority to have sites cleaned up that have excessive vegetation (including land that is overgrown with grass), unpiled lumber or wood, scrap iron or generally anything that may be corrected by manual labour.

Declaration

In urban municipalities, the council or an authorized municipal employee may declare any land or buildings to be untidy or unsightly.

The order must be in writing and state that the occupant or owner of the land or buildings must remedy the untidiness or unsightliness within 10 days of the service of the order. The owner or occupant has 10 days to notify the clerk/administrator of his or her intention to appear before the council at the meeting the declaration is to be made and show cause why the work should not be completed.

Should the order be appealed to the council, the untidiness or unsightliness must be remedied within 10 days of the date of the council's decision. A council may also authorize a longer period of time to remedy the untidiness or unsightliness within the order.

In rural municipalities, only council may declare land or buildings to be untidy or unsightly. A council may order the owner or occupant to remedy the untidiness or unsightliness before the date of the next regular council meeting.

(See Appendix B for sample resolution)

Order to Remedy

In urban municipalities, the order must state that the owner or occupant of the land may, within 10 days, give notice to the clerk of his/her intention to appear before council at its next meeting to show cause as to why the work should not proceed. The order is to be served on the owner or occupant either personally or by registered mail. If the owner or occupant is deceased, or if the owner's address is unknown, the order must be published in at least two issues of a newspaper circulating within the municipality.

In rural municipalities, the notice of declaration can either be served on the owner or occupant of the premises in question. This notice must be served at least 10 days before the date of the next regular council meeting, either personally or by registered mail. In the case where the owner is unknown or is deceased, the council must advertise the notice in two issues of a newspaper circulating in the municipality. This notice must state that the owner or occupant may appear at the next regular council meeting and show cause why the work should not proceed.

(See Appendix B for sample order)

Objection from Owner

If the owner or occupant appears before council and shows cause why the work should not proceed, council has the option to rescind or amend the order.

Council May Do Work

If the owner or occupant fails to complete the work, refuses to remedy the situation, or does not appear before the council, the municipality may proceed to have the work done.

In urban municipalities, the cost of doing the work is to be added to the taxes of the land on which the work was done.

In rural municipalities, the cost of the work may be added to the taxes on the land that constitutes the premises. The council may also recover the cost of the work by suit or distress proceedings.

Excavation Nuisances

Section 134 of *The Urban Municipality Act, 1984* and Section 249 of *The Rural Municipality Act, 1989* gives a council the authority to declare any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool or other structure a nuisance and dangerous to the public safety and health (referred to as excavation nuisances). The power of a council extends to any private land and in or about any building. This authority permits a council to remedy a potentially harmful or dangerous situation in a short period of time.

Order of Council

A council may order any excavation that is considered to be a nuisance or danger to the public safety or health to be pulled down, filled up or otherwise dealt with by the owner, agent, lessee or occupant in the manner determined by the council. In the case of urban municipalities, the council is only required to issue the order by resolution, although the order could be issued by bylaw. In rural municipalities, the order may be issued by bylaw or by resolution.

(See Appendix C for sample resolution)

Posting and Service of Order

The order must be posted at or near the nuisance. In urban municipalities, the order must be served on the owner of the land either personally or by registered mail. In rural municipalities, the order must be served on the owner or occupant. If the owner (or occupant in rural municipalities) is unknown or is deceased, the notice must be published in two issues of a newspaper circulating in the municipality. The municipal council determines the length of time the owner or occupant has to remedy the situation. This time period is specified within the order. The time frame for the owner or occupant to comply with the order begins once the notice is deemed to have been served.

(See Appendix C for sample order)

Noncompliance

If the owner fails to comply with the order within the time prescribed in the order, then the council may proceed to have the work done as it considers necessary for the purposes of carrying out the order. The council is limited to performing only the work specified in the order. All costs associated with completing the work as specified in the order are to be added to and form part of the municipal taxes on the land on which the work was done.

Derelict/Junked Vehicles

Section 132 of *The Urban Municipality Act, 1984* and Section 251 of *The Rural Municipality Act, 1989*, gives a municipal council the authority to serve notice on an owner or occupant of a premises to remove a "derelict" or "junked" vehicle. *The Urban Municipality Act, 1984* uses the term "junked vehicle" and *The Rural Municipality Act, 1989* uses the term "derelict vehicle". The definitions of these terms in the Acts are nearly identical.

In order for a vehicle to be ruled as derelict or junked it must meet the criteria as set out below. The council is the sole judge as to whether a vehicle meets all three criteria. This provision exists to enable the council to clean up private property in the interests of public safety, and maintaining a clean community.

Criteria

To declare a vehicle as being derelict or junked, the following criteria must be used:

- A derelict or junked vehicle is any automobile, tractor, truck or trailer (or any other vehicle in urban municipalities) that:

a) does not have a current license plate attached to it; **and**

b) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition; **and**

c) is located in the open on private property and does not form part of the business enterprise lawfully being operated on that property.

Notice of Declaration

The council must pass a resolution to declare a vehicle as derelict or junked. The resolution should specify all of the criteria the council used to determine the junked/derelict status. The notice must be served on the owner or occupant of the property, either personally or by registered mail. The notice must indicate the time and place of the council meeting that the owner or occupant may attend to show cause why the vehicle should not be disposed of or, in the case of urban municipalities, its condition remedied.

In urban municipalities, the notice must include the time period in which the vehicle is to be removed from the land and destroyed or require that the condition be remedied.

(See Appendix D for sample resolution)

Service of Notice

The notice must be served on the owner or occupant not less than three days before the date of the council meeting referred to in the notice.

In rural municipalities, where the person to be served does not live in the municipality the notice is deemed to be served if it is sent to the person by registered mail, postage prepaid, at the address of the person appearing in the records of the municipality. The notice is to be served not less than 10 days before the date of the council meeting referred to in the notice. If the affected person **does** live in the municipality, the notice must be served personally.

For urban municipalities, the general service provisions of Section 330 of *The Urban Municipality Act, 1984* apply. The notice may be served personally or by registered mail. If the service is by registered mail, then it is deemed to have been received on the fifth day following the date of its mailing.

If the address of the person to be served is unknown, the notice may be served by publishing it in at least two issues of a newspaper circulating in the municipality for rural municipalities and one issue of a newspaper circulating in the municipality for urban municipalities. The last publication of the notice is to appear not less than three days before the council meeting mentioned in the notice.

(See Appendix D for sample notice)

Removal of Vehicle

If the person served does not appear before the council or fails to satisfy the council that the derelict/junked vehicle should not be removed, the council may authorize its removal and destruction or otherwise dispose of the vehicle. Costs of removal and disposal may be added to the taxes on the land and buildings less any amount realized from the sale of the vehicle, as may be the case.

Council Sole Judge

The council's decision regarding a junked/derelict vehicle is final. The council is the sole judge and there can be no further appeal of its decision to a higher level of government or a court of law. The council must use the criteria as set out in the definition of a junked/derelict vehicle in rendering its decision.

Dangerous Buildings

Section 125 of *The Urban Municipality Act, 1984* and Section 251.1 of *The Rural Municipality Act, 1989* provides a municipal council with the authority to take any reasonable emergency action to secure an unoccupied building that is damaged and is an imminent danger to public safety. In this instance, a council has the authority to enter the property and eliminate the danger. This section also gives a council the authority to declare any occupied building to be dangerous to the health of the occupants.

Declaring a Building to be a Danger to Public Safety

A council may declare any unoccupied, damaged building a danger to public safety. The declaration may be by bylaw or resolution. The council may take reasonable emergency action to secure the building and eliminate the danger. The work that is carried out must be limited to what is necessary to eliminate the danger and secure the building, nothing more. The council must be prepared to defend its actions, and give reasons and the criteria it used to determine that a building was dangerous.

The cost of securing the building and eliminating the danger is to be added to the municipal taxes on the building on which the work was done and on the land on which the building is situated.

(See Appendix E for sample resolution)

Notification to Owner

When emergency action is taken, the administrator/clerk must immediately notify the owner of the building and the owner of the land on which the building is situated. The notice may be served personally or by registered mail. The council must inform the owner(s) that the municipality has taken action to secure their property. The owner(s) must also be notified that the municipality intends to charge the cost of doing the work against the land and buildings. In addition, the owner(s) must be invited to appear before council if they dispute the municipality's need to take action or the intention to charge the cost against the land and buildings.

The owner(s) are entitled to make representation to the council on the date specified in the notice.

(See Appendix E for sample notice)

Dangerous Occupied Buildings

On recommendation from a medical health officer, the council may also declare any **occupied** residential building a danger to the health of the occupants. In this situation, the council may order the owner, an agent of the owner, the lessee or the occupant of the building to repair the building in a manner, and within a time frame following service of the order, as determined by the council.

The council must allow at least fourteen (14) days after the expiry of the time period set out in the order for the completion of the work. If the terms of the order are not met within the time allowed, the council may provide for the building to be repaired.

(See Appendix E for sample resolution and order)

Adding Costs to Taxes

The cost of doing any work, whether due to emergency or to repair a building because of health concerns, is to be added to the taxes on the building in which the work was done and on the land on which the building is situated.

Standards and Procedures Bylaw

Section 134.2 of *The Urban Municipality Act, 1984* and Section 251.2 of *The Rural Municipality Act, 1989* provides a municipal council with the option to adopt a bylaw or bylaws establishing its own standards and procedures when dealing with municipal nuisances. These standards and procedures may deal with inspections, notices, compliance orders, time requirements, appeal processes and appeal bodies, enforcement, penalties and general procedural matters. A bylaw adopted under this section will be an alternative to exercising authority under Sections 124, 125, 130, 132 and 134 of *The Urban Municipality Act, 1984* or Sections 248 through 251.1 of *The Rural Municipality Act, 1989*. However, the procedures and time requirements found in those sections could be used as a guideline in the preparation of the bylaw.

Inspections

The bylaw or bylaws may provide for inspections of property by an authorized municipal employee or an authorized agent of the municipality.

Inspectors may be given the authority to enter any property other than private dwellings at reasonable times, without the consent of the owner, for the purposes of carrying out their duties which include performing tests and taking samples. A person who obstructs an inspector in the performance of his or her duties may be penalized as provided for in the bylaw.

Notices/Compliance Orders

The time limit for giving notices to owners and other persons affected by the nuisance declaration must be reasonable. The circumstances in which the notice may be dispensed must be reasonable as well.

The bylaw must provide a time period for compliance with the notice(s). Should an inspector or other authorized municipal employee have the authority to establish times, he/she must provide that those times are reasonable.

The notices or orders must be specific. Some items that should be included in the notices are:

- the name(s) of the person(s) to be notified;
- the civic address and legal description of the property where the municipal nuisance is located;
- the reason the property in question has been declared to be a municipal nuisance or a danger to public health or safety;
- the nature of the work to be completed;
- the final date for completion of the work;
- the procedures for appeal to the local appeal board;
- the penalty for noncompliance with the notice or order;
- the provision that the municipality will complete the work and charge the cost of doing the work against the taxes on the land and buildings that the work was done, if the notified persons fail to remedy the conditions within the time specified in the order;
- the date and place the notice or order was made; and
- the signature of the authorized municipal employee or authorized agent of the municipality.

Time Requirements

All time requirements must allow the notified parties a reasonable opportunity to remedy the nuisance according to the notice.

The council must provide mechanisms to permit the municipality to take prompt action in situations involving an imminent danger to public health and safety.

Appeal Processes and Appeal Bodies

The bylaw must provide that an order made as a result of an inspection or emergent situation may be appealed to a local appeal board established by the municipality. An appeal to the local board does not stay the order unless that board, on application by the appellant, decides otherwise. If the local appeal board decides to stay the order, the time required for the completion of the work does not begin until the appeal board renders a decision.

The local appeal board may confirm, modify or repeal the order or substitute its own order for the order being appealed. Any order made by the local appeal board may be appealed to the Saskatchewan Municipal Board (SMB).

The SMB may confirm, modify or repeal the decision of the local appeal board or substitute its own decision for the decision being appealed. A decision of the Saskatchewan Municipal Board may be

appealed to the Court of Queen's Bench on a point of law or jurisdiction within 30 days after the date the decision is made.

The Court of Queen's Bench may confirm, modify or repeal the appealed order or decision or order the matter to be returned to the SMB to be dealt with in light of the court's decision on the question of law or jurisdiction.

Enforcement

The bylaw may contain provisions for the enforcement of an order. This may include the municipality performing the necessary work to remedy the nuisance and charging the cost of the work to the owner of the property. These costs may also be added to the taxes on the land and buildings on which the work was done.

Penalties

The bylaw may provide for the incorporation of Section 134.1 of *The Urban Municipality Act, 1984*, which provides for penalties for noncompliance with an order. The fine(s) may be a daily fine or may provide for a different maximum for a first, second and subsequent offence.

The maximum fine may not be more than $2,000 in the case of an individual or $5,000 in the case of a corporation.

General Procedural Matters

This section of the bylaw may deal with the procedures the council or the authorized municipal official will use in declaring premises a nuisance. It may also include provisions for appealing to the local appeal board.

Appendix A

Sample Resolution

Building Nuisances

Section 124, The Urban Municipality Act, 1984
Section 248, The Rural Municipality Act, 1989

That the Council of the ***(name of municipality)*** hereby declares ***(the building, fence, scaffolding, structure or erection)*** located on:

(state legal description)

the civic address of the property being ***(state address were applicable)*** to be a nuisance under the provisions of *The Urban Municipality Act, 1984* or *The Rural Municipality Act, 1989* because Council is of the opinion that as a result of ***(its ruinous or dilapidated state, faulty construction, or any other reason, be specific)***, the ***(building, fence, scaffolding, structure or erection)*** is ***(dangerous to the public safety or health, OR substantially depreciates the value of other property in the vicinity)***,

That the Clerk/Administrator notify the owner and those persons having a registered interest in the property, that Council will consider making an order at its regular meeting to be held on the ___ day of _____, ___ ***(to be no less than fourteen days (14) after the giving of this notice)*** at ***(state time of meeting)***, in the ***(name of municipality)*** Council Chambers located at ***(civic address)***, requiring the owner, within the time period to be specified in the order to:

(list conditions to remedy, be specific)

a) demolish or remove the said ***(building, fence, scaffolding, structure or erection)*** and to fill in any open basement or excavation on the site after the demolition or removal,

OR

b) remedy the condition of the ***(building, fence, scaffolding, structure or erection)*** to the extent as follows:

(state conditions to remedy, be specific)
and

That the owner and those persons shown to have a registered interest in the said property, be notified of their entitlement to appear before Council at the date and time set and be heard before an order is made.

Carried.

Sample Notice

Building Nuisances

Section 124, The Urban Municipality Act, 1984
Section 248, The Rural Municipality Act, 1989

(Name of Municipality)

NOTICE

To: ***(Owner, and any person having a registered interest in the property)***

RE: ***(Legal description of property and civic address)***

Take notice that the ***(name of municipality)*** council at its meeting held on _____, ____ declared the ***(building, fence, scaffolding, structure or erection)*** located at ***(state civic address where applicable)*** and more particularly described as ***(state legal description)*** to be a nuisance because the buildings are in Council's opinion ***(state reason, such as danger to public safety or health OR the property substantially depreciates the value of other property in the vicinity, be specific using the same wording as the resolution)***; and

Council will consider making an order at its meeting to be held on ***(state date and time of meeting)*** in the Council Chambers located at ***(state civic address of council chambers)***, requiring you to:

(use the same wording as in the resolution)

a) demolish or remove the said ***(building, fence, scaffolding, structure or erection)*** and to fill in any open basement or excavation on the site after the demolition or removal,

OR

b) remedy the condition of the ***(building, fence, scaffolding, structure or erection)*** to the extent as follows:
(state conditions to remedy); and

that you are entitled to appear before Council at the time and date specified above and be heard before and order is made.

Dated at _____ in the Province of Saskatchewan, this _ day of _____, ___.

_____
Administrator/Clerk

Resolution Issuing Order

Building Nuisances

Section 124, The Urban Municipality Act, 1984
Section 248, The Rural Municipality Act, 1989

That, the ***(building, fence, scaffolding, structure or erection)*** located at ***(civic address if applicable)*** and more particularly described as:

(legal description of property)

be declared a nuisance because, the ***(building, fence, scaffolding, structure or erection)*** is ***(for example: a danger to public safety or health and depreciate the value of other land or improvements in the vicinity as a result of their dilapidated state use same wording as in the resolution declaring the nuisance);***
and

That ***(state name of registered owner and/or assessed owner)*** the registered and assessed owner, be ordered:

a) to demolish or remove the said ***(building, fence, scaffolding, structure or erection)*** and to fill in any open basement or excavation remaining on the site of the said ***(building, fence, scaffolding, structure or erection)*** after the demolition or removal thereof; and

OR

b) to remedy the condition of the ***(building, fence, scaffolding, structure or erection)*** to the extent as follows:
(state conditions to remedy)

c) to complete the work on or before the _ day of _____, ___; and

That if the owner does not comply with the order within the specified time:

a) the Administrator/Clerk be authorized to take whatever steps that he/she considers necessary to carry out Council's order concerning the demolition or remedial work of the said ***(building, fence, scaffolding, structure or erection)*** located ***(state civic address if applicable, if not legal description)***; and

b) all of the costs incurred in the tendering process and in the demolition or remedial work be added to, and thereby form part of, the taxes on the land known as ***(civic address of property if applicable, if not legal description).***

Carried.

Sample Order

Building Nuisances

Section 124, The Urban Municipality Act, 1984
Section 248, The Urban Municipality Act, 1989

(Municipality) of _____

ORDER

TO: ***Registered and Assessed Owner***

Take notice that the Council of the ***(name of municipality)*** has declared the ***(building, fence, scaffolding, fence, structure or erection)*** located at ***(civic address if applicable)*** and more particularly described as:

(legal description)

to be a nuisance and in the opinion of Council ***(is a danger to public safety and health and constitutes a nuisance and/or substantially depreciates the value of other land or improvements in the vicinity, use same wording as declaration resolution)***; and

Further take notice that under (Subsection 124(3) of *The Urban Municipality Act, 1984*, or Subsection 248(2) of *The Rural Municipality Act, 1989*) Council hereby orders you, within the time specified to:

(use same wording as declaration resolution)

a) demolish or remove the said ***(building, fence, scaffolding, structure or erection)*** and to fill in any open basement or excavation on the site after the demolition or removal,

OR

b) remedy the condition of the ***(building, fence, scaffolding, structure or erection)*** to the extent as follows:
(state conditions to remedy)

You are hereby ordered to comply with this Order on or before the __ day of _____, ___.

If you are aggrieved by the requirements of this Order, you have the right to a review of this Order by a Judge of the Court of Queen's Bench in the

Province of Saskatchewan pursuant to (Subsection 124(4) of *The Urban Municipality Act, 1984* or Subsection 248(4) of *The Rural Municipality Act, 1989*), within 45 days of ***(the date below for "Rural" municipalities)*** or ***(the date this order is served for "Urban" municipalities).***

Upon expiration of the 45 days, in the absence of any judicial order setting aside, varying or modifying the above order and if you have not complied with the order, Council will proceed to have any work done that it considers necessary for the purpose of carrying out the above order and the cost of that work will be added to and thereby form part of the taxes on the land on which the ***(building, fence, scaffolding, structure or erection)*** was situated.

Dated at the _____ of _____ in the Province of

Saskatchewan, this _____ day of _____, ____.

_____
Administrator/Clerk

*(Note, **if applicable**: The issuing of this order does not preclude the requirement to obtain a demolition/renovation/moving permit, which is mandatory under the provisions of the municipality's building bylaw.)*

Sample Resolution

Untidy and Unsightly Premises

Section 130, The Urban Municipality Act, 1984
Section 250, The Rural Municipality Act, 1989

That the Council of the ***(name of municipality)*** hereby declares the ***(land or buildings)*** located at ***(state civic address were applicable)*** and more particularly described as:

(state legal description)

to be untidy and unsightly under the provisions of *The Urban Municipality Act, 1984* or *The Rural Municipality Act, 1989*, and that the Clerk/Administrator is hereby instructed to notify the owner or occupant of the ***(land or buildings)***, that the following work must be completed ***(within 10 days of the service of this notice, for urban municipalities)*** or ***(before the date of the next regular Council meeting to be held on state date and place of meeting, for rural municipalities)***:

(state work to be completed, be specific)

For example:

a) *all vegetation must be cut and trimmed; or*
b) *all lumber must be piled neatly 18 inches off the ground; or*
c) *remove all furniture, mattresses, tree brush, carpets, tires and rims, or*
d) *replace broken windows on second floor, or*
e) *repair/replace front and back doors, etc.*

Carried.

Sample Notice

Untidy and Unsightly Premises

Section 130, The Urban Municipality Act, 1984
Section 250, The Rural Municipality Act, 1989

NOTICE

To: ***(Owner, or any person having a registered interest in the property)***

RE: ***(Legal description of property, and civic address)***

Take notice that pursuant to (Section 130 of *The Urban Municipality Act, 1984* or Section 250 of *The Rural Municipality Act, 1989*), the ***(Village/Town/R.M.)*** Council ***(or an authorized municipal employee, in the case of urban municipalities)*** at its meeting held on ***(state date and time of meeting)*** declared the ***(land or building)*** located ***(state civic address, if applicable)*** and more particularly described as:

(state legal description)

to be ***(untidy or unsightly)***. You are hereby ordered to remedy this ***(untidiness or unsightliness)*** within 10 days after the date of service of this order ***(for "Urban" municipalities)*** or by the date of the next regular meeting of council, as set forth below ***(for "Rural" municipalities)***,

(state work to be completed, be specific)

For example:

a) all vegetation must be cut and trimmed; or
b) all lumber must be piled neatly 18 inches off the ground; or
c) remove all furniture, mattresses, tree brush, carpets, tires and rims, or
d) replace broken windows on second floor, or
e) repair/replace front and back doors, etc.

(For Urban Municipalities use the following paragraph)

If you know of any reason why this work should not be completed, you may within 10 days after the date of service of this Order give notice to the ***(Administrator/Clerk)*** of your intention to appear before Council at its meeting to be held on ***(state date and time of meeting)*** in the Council Chambers, ***(state civic address of council chambers)***, to dispute the Order or otherwise show cause why the work should not be proceeded with.

(For Rural Municipalities use the following paragraph)

You may appear at the next regular meeting of Council to be held on ***(state date and time of meeting)*** in the Council Chambers ***(state address of Council Chambers)*** to be heard and show cause why the work should not be proceeded with.

Should you fail to remedy this condition within the time period specified or fail to appear before Council and show cause why this work should not be completed, Council ***(or an authorized municipal employee in the case of urban municipalities)*** may proceed to have the work completed, and the costs:

a) shall be added to and form part of the taxes on the land or buildings on which the work was done, ***(for "Urban" municipalities)***; or

b) may be recovered by suit or distress, or the costs may be added to the taxes on the land that constitutes the premises, ***(for "Rural" municipalities)***.

Dated at _____ in the Province of Saskatchewan, this _ day of _____, ___.

_____
Administrator/Clerk

(Note: In Rural Municipalities this notice is to be served on the owner or occupant of the property in question at least 10 days before the date of the next regular Council meeting)

Appendix C

Sample Resolution

Excavation Nuisances

Section 134, The Urban Municipality Act, 1984
Section 249, The Rural Municipality Act, 1989

That the Council of the *(name of municipality)* hereby declares the *(basement, excavation, ditch, watercourse, pond, surface water, swimming pool or other structure)* located at *(state civic address)* and more particularity described as:

(state legal description)

to be a nuisance and dangerous to the public safety and health because the *(basement, excavation, ditch, watercourse, pond, surface water, swimming pool or other structure)* is *(state reason and be specific)*,

and

That the situation is to be remedied in the following manner:

(state work to be done, be specific)

and

That the *(Administrator/Clerk)* notify the *(owner, agent, lessee, or occupant)* of the said land that Council has declared the *(basement, excavation, ditch, watercourse, pond, surface water, swimming pool or other structure)* to be a nuisance,

and

That Council has ordered the said situation to be remedied within ____ of the date of service of this order upon the owner.

Carried.

Sample Notice

Excavation Nuisances

Section 134, The Urban Municipality Act, 1984
Section 249, The Rural Municipality Act, 1989

NOTICE

To: *(Owner, and/or in the case of "Rural" municipalities occupant)*

RE: *(Legal description of property, and civic address)*

Take notice that the *(state name of municipality)* council at its meeting held on _____, ___declared the *(basement, excavation, ditch, watercourse, pond, surface water, swimming pool or other structure)* located at *(state civic address where applicable)* and more particularly described as: *(state legal description)*

to be a nuisance and dangerous to the public safety and health because the *(basement, excavation, ditch, watercourse, pond, surface water, swimming pool or other structure)* is *(state reason and be specific);*

Council has ordered the situation to be remedied in the following manner: *(state work to be done, be specific, as in the Council resolution declaring the excavation nuisance)* and that this work is to be completed within __ days of the date of service of this notice.

Should you fail to complete this work within the time period specified, Council may proceed to have the work done as it considers necessary for the purpose of carrying out this order, and the cost of the work will be added to, and thereby form part of the taxes on the land on which the work was done.

Dated at _____ in the Province of Saskatchewan,

this __ day of _____, ___.

_____
Administrator/Clerk

Sample Resolution

Junked/Derelict Vehicles

Section 132, The Urban Municipality Act, 1984
Section 251, The Rural Municipality Act, 1989

That the Council of the *(name of municipality)* declares the *(vehicle or vehicles, specify description of vehicle as completely as possible for example, make, model, year, colour, serial number, etc.)* located at *(state civic address were applicable)* and more particularly described as:

(state legal description)

to be a junked vehicle pursuant to Subsection 132(1) of *The Urban Municipality Act, 1984 (for urban municipalities only)*

to be a derelict vehicle pursuant to Subsection 251(1) of *The Rural Municipality Act, 1989 (for rural municipalities only)*

and

That the Clerk/Administrator notify the owner or occupant of the land where the *(junked/derelict)* vehicle is located that owner or occupant may attend the Council meeting to be held on *(state date and time)* to show cause why the vehicle should not be *(removed, destroyed or otherwise disposed of)* **OR** *(its condition remedied, **in urban municipalities only**, be specific as to what is required to make the vehicle legal);*

and

The following applies only to urban municipalities
That the Clerk/Administrator notify the said owner or occupant that the *junked* vehicle is to be removed from the above property or its condition remedied as stated by *(state date)*.

Carried.

Note: In Urban municipalities the notice referred to in this resolution may be served personally or by registered mail. In a rural municipality, if the notice is directed to a person residing in the municipality then the notice must be served personally at least three days before the council meeting. If the notice is directed to a person residing outside of the rural municipality, the notice must be delivered not less than 10 days prior to the meeting.

Sample Notice

Junked/Derelict Vehicles

Section 132, The Urban Municipality Act, 1984
Section 251, The Rural Municipality Act, 1989

Name of Municipality

NOTICE

To: *(Owner or occupant)*

RE: *(Legal description of property, and civic address)*

Take notice that pursuant to (Section 132 of *The Urban Municipality Act, 1984* or Section 251 of *The Rural Municipality Act, 1989)* council has declared the *(vehicle or vehicles, specify description of vehicle as completely as possible for example, make, model, year, colour, serial number, etc.)* located at *(state civic address were applicable)* and more particularly described as:

(state legal description)

to be a junked vehicle pursuant to Subsection 132(1) of *The Urban Municipality Act, 1984 (for urban municipalities only)*

to be a derelict vehicle pursuant to Subsection 251(1) of *The Rural Municipality Act, 1989 (for rural municipalities only)*

and

The following applies only to urban municipalities
You are hereby notified that the said junked vehicle is to be *(removed from the above property and destroyed, sold or otherwise disposed of* **or** *its condition remedied - be specific as to what is required to make the vehicle legal)* by *(state date).*

The following applies to urban and rural municipalities
You may attend the Council meeting to be held on *(state date, time and place)* to show cause why the said vehicle should not be removed, sold or otherwise disposed of.

Should you fail to remedy this condition by the date set forth above or fail to appear before Council and show cause why the vehicle should not be removed, Council *(or an agent of the municipality or an authorized municipal employee in the case of rural municipalities)* may proceed to remove and destroy, sell or otherwise dispose of the vehicle, and the costs may be added to and form part of the taxes on the land and buildings on which the vehicle was located.

Dated at _____ in the Province of Saskatchewan, this __ day of _____, ___.

_____
Administrator/Clerk

Sample Resolution for Unoccupied Buildings

Dangerous Buildings

Section 125, The Urban Municipality Act, 1984
Section 251.1, *The Rural Municipality Act, 1989*

That the Council of the *(name of municipality)* is of the opinion and hereby declares that the building located at *(state civic address)* more particularly described as *(state legal description)* is an imminent danger to public safety for the following reasons *(be specific)*,

and

That following actions be taken immediately to secure the building and eliminate the danger:

> *(list conditions to remedy, be specific, addressing only those items that need to be done to make the building safe)*

and

That the Clerk notify the owner of the said property by registered mail of the action taken by this municipality respecting the said property,

and

That the owner be notified that all costs associated with securing and eliminating the danger on the said property will be charged against the said land and buildings,

and

That the owner be invited to appear before Council at a meeting to be held on *(state date, time and location of meeting)* to make representations if he or she disputes the need for action or the intention of charging the cost of the emergency action against the land and buildings.

Carried.

Sample Notice to Owner for Unoccupied Buildings

Dangerous Buildings

Section 125, The Urban Municipality Act, 1984
Section 251.1, *The Rural Municipality Act, 1989*

Name of Municipality

NOTICE

To: *(Owner of the building, and Owner of the land)*

Re: *(Legal description of property and civic address)*

Take notice that pursuant to (Section 125 of *The Urban Municipality Act, 1984* or Section 251.1, *The Rural Municipality Act, 1989*) Council has declared the building located at *(state civic address)* more particularly described as *(state legal description)* to be an imminent danger to public safety because of:

(list conditions, use same wording as resolution)

and that Council has taken the following emergency action to secure the building and eliminate the danger; *(describe work that was done, from resolution)*

Further take notice that Council intends to charge the cost of this work that being *(state cost of doing work)* against the said land and buildings, thereby forming part of the municipal taxes;

Further take notice that you are invited to appear before Council at its meeting to be held on *(state date, time and location of meeting)* to make representations with respect to the need for this action or the intention of charging the cost of the emergency action against the said land and buildings.

Dated at _____ in the Province of Saskatchewan,

this __ day of _____, ____.

_____
Clerk/Administrator

Sample Resolution for Occupied Buildings

Dangerous Buildings

Section 125, The Urban Municipality Act, 1984
Section 251.1, *The Rural Municipality Act, 1989*

That the Council of the *(name of municipality)* on the recommendation of the Medical Health Officer hereby declares the building located at *(state civic address)* more particularly described as *(state legal description)* to be a danger to the health of its residents for the following reasons *(be specific)*,

and

That the following actions be taken within *(state number of days, to be at least 14 days, as determined by Council)* of the service of the order to remedy the condition of building:

> *(list conditions to remedy, be specific, addressing only those items that need to be done to eliminate the danger per the Medical Health Officer's report)*

That the Clerk notify the owner, any agent of the owner, the lessee or the occupant of the building of the action taken by this municipality respecting the said property and that if the work is not completed within 14 days after the date specified for completion of the work, Council will undertake the necessary work to repair the property,

and

That the cost of doing the said work will be added to and form part of the taxes on the said land and buildings.

Carried.

Sample Order for Occupied Buildings

Dangerous Buildings

Section 125, The Urban Municipality Act, 1984
Section 251.1, *The Rural Municipality Act, 1989*

Name of Municipality

ORDER

To: *(Owner, agent of owner, lessee or occupant of building)*

Re: *(Legal description of property and civic address)*

Take notice that pursuant to (Section 125 of *The Urban Municipality Act, 1984* or Section 251.1, *The Rural Municipality Act, 1989*) the Council of the *(state name of municipality)* on the recommendation of the Medical Health Officer has declared the building located *(state civic address)* more particularity described as *(state legal address)* to be dangerous to the health of the occupants because of:

(list conditions, as per resolution)

and that Council hereby orders you to remedy these conditions by performing the following work within ___ days of the service of this order,

(list work to be done, be specific)

Further take notice that should this order not be complied with within 14 days of the time specified above, Council will proceed to have the said work completed and the cost of doing the work will be added to the taxes on the said land and buildings.

Dated at the _____ of _____ in the

Province of Saskatchewan this ___ day of _____, ___.

_____
Clerk/Administrator